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Audit Report 2007 Public Access to Law Enforcement Information

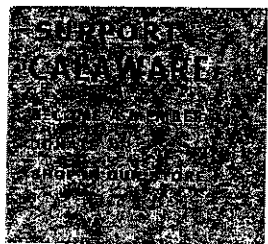
Who: Sixty-five employees and volunteers from 31 newspaper and broadcast news organizations, trained and coordinated by Californians Aware, a Sacramento-based public interest organization.

What: A systematic survey of the openness of law enforcement agencies to sharing information about themselves with citizens in their local communities, including but not limited to their compliance with state public information law.

When: Visits conducted on December 4, 2006, with disclosures of information often extended through the end of the year.

Where: Two hundred sixteen agencies in 30 of California's 58 counties, from San Diego to Siskiyou: **184 police and sheriff's departments and 32 California Highway Patrol area offices.** The audit is believed to be the largest of its kind in the nation to date.

Why: To document and compare the relative openness of law enforcement agencies to the public scrutiny that is the right of every Californian, especially when those asking about crimes, arrests and other facts are not representatives of the news media. Also to answer the question: Do those charged with enforcing the law know and heed the laws requiring open government? For the past several decades, corporations in the retail and hospitality sectors, and even some health clinics, have increasingly used "secret" or "mystery" shoppers — trained observers sent by market research firms in the guise of patrons or patients — to report back to the company on such realities as the knowledge, professionalism and customer skills of its public contact staff. See, for example, "Secret Shoppers Help Businesses," http://chronicle.augusta.com/stories/020700/abc_secret.shtml. Audits of public agencies' public information practices are simply one variation of this approach — but unlike the business services, they are provided at no cost to government or to the taxpayer.



Conclusions

1. Many if not most California policing agencies fail the open government obligations that they share with other public agencies so radically that it is hard to view them as part of the same public universe.
2. Those obligations are to know the rudiments of the California Public Records Act and to treat unfamiliar citizens who request information with at least the same readiness to provide it as is granted to journalists, without demanding identity and other disclosures that are neither sanctioned by the law nor explained by innocent need. In this audit the most common experience was that the requester was required to provide his or her identification, purpose and/or affiliation, but then left the department or office empty-handed, and at best waited one or more weeks to learn whether any information would be forthcoming at all.
3. Most information was not forthcoming. Ironically, the only requests made in the audit of sheriff's and police departments that led more than half of them (52 percent) to provide access was for copies of the department's public information policy and of its fee policy for copies of crime reports for victims. CHP offices at this writing (January 9) have yet to provide any information.
4. Another common pattern was that the departmental clerk or spokesperson, instead of taking the responsibility for assembling records requested by the auditor — all of which dealt with the department's own operations or personnel — sent the auditor to other departments of the city, county or CHP bureaucracy in search of the information. In such cases it seems likely that the audited department already had copies of the information or could easily obtain it.
5. Until the results have been sifted more carefully it is impossible to say whether legislation is in order to correct these striking failings. Legislation cannot compel common sense, courtesy or a sense of professionalism and responsibility, whose presence in most of these departments would have made so much difference.
6. But training is clearly in order. Whatever departmental or CHP leaders may know, those who deal directly with the public far too often not only do not know the California Public Records Act and related laws, but what is worse, do not appreciate how misinformed they are. Such a confident fund of false facts, combined with a mindset that too often considers the questioning stranger a potential threat to be probed rather than a citizen to be helped, is seldom the fault of those it afflicts. Most literally do not know any better. But that will be of little comfort to the baffled if not intimidated person who is turned away knowing only that his or her name has been filed as someone asking questions.
7. Sheriffs, police chiefs and CHP officials whose officers earned embarrassing grades in this audit have two choices. They can reflexively deny, dispute or dismiss the findings, or they can accept that there must be room for improvement and schedule training accordingly. The California Commission on Peace Officer Standards and Training either has a program for such purposes or if not, it should. Californians Aware, which last October gave free remedial training to almost 200 state agency employees after two audits earlier in the year, is ready to do all it can to make its next police agency audit more successful for the departments that are checked.
8. Not every public counter person or full-time press information officer needs deep training in the public information law. But they — and those who influence them — do need to be disabused of a handful of legal myths and cleared of a few edgy attitudes that get in the way. Procedurally, they also need to know whom to turn to when they get an unfamiliar request, to make sure that a reasonable response process is set in motion and understood by the requester before he or she leaves the office.
9. CPRA stands not for the California Press Relations Act but the California Public Records Act. The fact that citizens may not cite the law as often as journalists do does not mean they have no rights under it. They have the same rights as any newspaper or broadcaster. Their questions deserve at least as much respect. They are not suspects and should never be treated as if not trusted. If they are distrusted, why should they trust in return?



Audit Report 2007
Public Access to Law Enforcement Information
Findings and Conclusions

Findings

The Oral Request to Police and Sheriff's Departments

1. Form 700 Statement of Economic Interest of commander or senior officer	43% -	Must go elsewhere to acquire
	23% -	Don't know of/haven't heard of this form
	17% -	Made form available
2. Crime information on any burglaries, armed robberies or sexual assaults November 1-15	40% -	Made some information available (1/2 of these did not release names of burglary and/or armed robbery victims)
	15% -	Must go to another office/officer to acquire
	11% -	Information is not public
3. Arrest information on persons apprehended for the crimes reported November 1-15	25% -	Information made available*
	16% -	Information was confidential
	10% -	Info unknown, other officer must be contacted
	8% -	No document exists that contains this info
	8% -	No response to request

*of this information, 27% of departments omitted the age of the arrestee, 22% omitted the arrestee's sex, and 16% failed to state the charges the arrestee was being held on.

The Written Request to Police and Sheriff's Departments

NOTE: Thirteen percent of departments simply refused to accept auditor's written request

4. The record of asset forfeiture fund distribution	36% -	Made information available
	10% -	Have no document responsive to request
	16% -	No response to request
	13% -	Refused to accept the written request
5. Statistical data on complaints about officers	40% -	Made information available
	14% -	Have no document responsive to request
	15% -	No response to request
	13% -	Refused to accept the written request
6. The salary schedule for peace officers	47% -	Made information available
	13% -	No response to request
	13% -	Refused to accept the written request
7. Actual earnings information for (unidentified) officers	15% -	Made information available
	32% -	Information was confidential
	15% -	No response to request
	13% -	Refused to accept the written request
8. Worker's comp claims made by (unidentified) officers	10% -	Made information available
	42% -	Information is confidential
	14% -	No response to request
	13% -	Refused to accept the written request
9. Second job (outside employment) information for (unidentified) officers	6 1/2% -	Made information available
	43% -	Information is confidential
	10% -	Have no document responsive to request
	15% -	No response to request

	13% -	Refused to accept the written request
10. The most recent death in custody report	29% -	Made information available
	28% -	Have no document responsive to request
	13% -	No response to request
	13% -	Refused to accept the written request
11. The employment contract for the department's commanding officer	25% -	Made information available
	28% -	Have no document responsive to request
	14% -	No response to request
	13% -	Refused to accept the written request
12. The media relations/public information policy statement	52% -	Made information available
	15% -	No response to request
	13% -	Refused to accept the written request
13. The fee charged for making copies of crime reports to victims	52% -	Made information available
	14% -	No response to request
	13% -	Refused to accept the written request
14. Demanded disclosures by the requester as a condition for providing access to information	51% -	Required to provide name or picture ID
	39% -	Required a statement of purpose for info
	27% -	Required auditor's affiliation/employment
	20% -	Required a request form to be filled out

NOTE: Ten departments (5.4%) imposed all four requirements.